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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/740,697	12/18/2003	Paul Campbell	03-456-B	9154

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EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/740,697

**Applicant(s)**

CAMPBELL, PAUL

**Examiner**

Michael P. Ferguson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 5-7,9,10 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,8,11,12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/18/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Species 7, Figure 11, claims 1-4, 8, 11, 12 and 14, in the reply filed on February 14, 2005 is acknowledged.
2. Claims 5-7, 9, 10 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 14, 2005.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 8, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Abbott (US 5,465,941).

As to claim 1, Abbott discloses a retaining-locking system for chain link fence slats, comprising:

a plurality of fence slat elements **60**, the slat elements being sized and shaped to be interwoven between consecutive links **12** of a chain link fence;

each of the slat elements having a first end, a second end, a front surface **78**, a back surface **80**, a first side edge **82**, a second side edge **82** and a notch **80** orthogonally oriented to a long axis of the slat, being disposed between the first end and

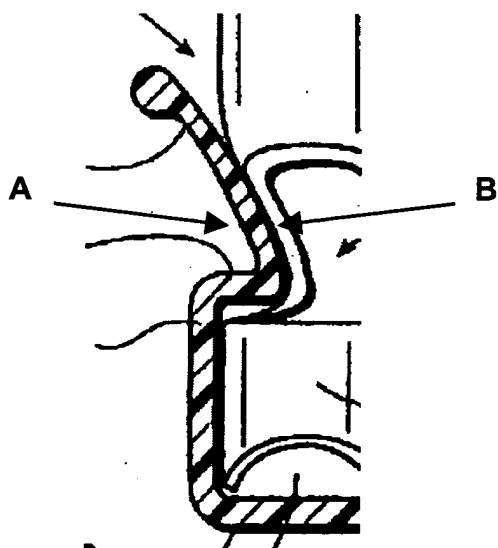
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the second end and extending inwardly from the first side edge toward the second side edge for a first predetermined distance;

a retaining-locking strip **64**, the strip being formed of resilient material, having a first end, a second end, an inner surface **A** (Figure 7 reprinted with annotations below), an outer surface **B**, an upper edge **76**, a lower edge **72** and a securing protrusion **75**;

the securing protrusion having a base, a back surface, an upper surface **76**, a lower surface **75** and being sized and shaped to fit slidably within the notch and being disposed upon the outer surface of the strip; and

whereby, when the slat elements are interwoven into between consecutive links of a chain link fence with each of the notches aligned with one another, the retaining-locking strip inserted between the slat elements and the links, oriented orthogonally to the slats with the securing protrusion disposed within the slats, the strip will urge the slats toward the links, thereby retaining the slats within the chain link fence (Figures 6-9).



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As to claim 2, Abbott discloses a retaining-locking system wherein the notch **80** in each of the slat elements **60** is rectangular in cross-section (Figure 9).

As to claim 3, Abbott discloses a retaining-locking system wherein the inner surface **A** of the retaining-locking strip **64** is concave and the outer surface **B** of the retaining-locking strip is convex (Figure 7).

As to claim 4, Abbott discloses a retaining-locking system wherein the inner surface **A** of the retaining-locking strip **64** is substantially parallel to the outer surface **B** of the retaining-locking strip when the strip is compressed between the securing protrusion **75** and the inner surface (Figure 7).

As to claim 8, Abbott discloses a retaining-locking system wherein either of the first end and the second end of the slat element **60** is pointed, thereby permitting the retaining-locking strip **64** to be interwoven first between consecutive links **12** of the chain link fence and successive slat elements to then be interwoven orthogonally between consecutive links of the chain link fence, the pointed end permitting the slat element to compress the retaining-locking strip until the securing protrusion **75** is aligned with the notch **80** (Figures 6 and 8).

As to claim 11, Abbot discloses a retaining-locking system wherein the slat elements **60** are of tubular construction (Figure 9).

As to claim 14, Abbott discloses a retaining-locking system wherein the inner surface **A** of the retaining-locking strip **64** is concave and the outer surface **B** of the retaining-locking strip is convex, the retaining-locking strip having a securing protrusion

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**75** disposed at a point spaced from at least one of the upper edge **76** and the lower edge **72** of the strip (Figure 7).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott in view of Finkelstein (US 5,465,941).

As to claim 12, Abbott fails to disclose a retaining-locking system wherein the slat elements include an internal reinforcing rib.

Finkelstein teaches a retaining-locking system wherein slat elements **20** include an internal reinforcing rib **31**; the rib providing for a more rigid slat element and preventing crimping of the slat element during installation (column 3 lines 24-29, Figure 2). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a retaining-locking system as disclosed by Abbott to have slat elements including an internal reinforcing rib as taught by Finkelstein in order to provide for a more rigid slat element and prevent crimping of the slat element during installation.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MPF

03/03/05



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